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HOUSE BILL 1168

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

MIGUEL P. GARCIA

AN ACT

RELATING TO ALCOHOLIC BEVERAGES; EXPANDING THE GROUNDS FOR DENYING AN APPLICATION FOR A LICENSE AND FOR REVOCATION OR SUSPENSION OF A LICENSE PURSUANT TO THE LIQUOR CONTROL ACT; AMENDING AND ENACTING SECTIONS OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of the Liquor Control Act, Section 60-6B-2.1 NMSA 1978, is enacted to read:

"60-6B-2.1. [NEW MATERIAL] GROUNDS FOR REFUSAL TO ISSUE A LICENSE. --The director may refuse to approve an application for issuance of a new license or transfer of ownership of a license under the Liquor Control Act if the director has reasonable grounds to believe that there is a history of serious and persistent problems involving disturbances, lewd or unlawful activities or noise either on the premises proposed to be

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1 licensed or in the immediate vicinity of the premises. Behavior
2 that constitutes grounds for refusal of a license pursuant to
3 this section, where related to the sale or service of alcoholic
4 beverages, includes but is not limited to obtrusive or excessive
5 noise, music or sound vibrations; public drunkenness; fights;
6 altercations; harassment; unlawful drug sales or other unlawful
7 activities; litter related to or resulting from the consumption
8 of alcoholic beverages; trespassing on private property; and
9 public urination. A history of such behavior in or related to
10 licensed premises currently or previously operated by the
11 applicant may be considered when reasonable inference may be
12 made that similar activities will occur in or related to the
13 premises proposed to be licensed. "

14 Section 2. Section 60-6C-1 NMSA 1978 (being Laws 1981,
15 Chapter 39, Section 97, as amended) is amended to read:

16 "60-6C-1. GROUNDS FOR SUSPENSION, REVOCATION OR
17 ADMINISTRATIVE FINE--REPORTING REQUIREMENT. --

18 A. The director may suspend or revoke the license or
19 permit or fine the licensee in an amount not more than ten
20 thousand dollars (\$10,000), or both, when he finds that any
21 licensee has:

22 (1) violated any provision of the Liquor
23 Control Act or any regulation or order promulgated pursuant to
24 that act;

25 (2) been convicted of a felony pursuant to the

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1 provisions of the Criminal Code, the Liquor Control Act or
2 federal law; or

3 (3) permitted his licensed premises to remain a
4 public nuisance in the neighborhood where it is located after
5 written notice from the director that investigation by the
6 department has revealed that the establishment is a public
7 nuisance in the neighborhood. The licensee's establishment
8 shall be considered a public nuisance if the director finds that
9 there is a history of serious and persistent problems involving
10 disturbances, lewd or unlawful activities or noise either on the
11 licensed premises or in the immediate vicinity of the licensed
12 premises. Behavior that constitutes a public nuisance includes
13 but is not limited to obtrusive or excessive noise, music or
14 sound vibrations; public drunkenness; fights; altercations;
15 harassment; unlawful drug sales or other unlawful activities;
16 litter related to or resulting from the consumption of alcoholic
17 beverages; trespassing on private property; and public
18 urination.

19 B. The director shall suspend or revoke the license
20 or permit and may fine the licensee in an amount not to exceed
21 ten thousand dollars (\$10,000), or both, when he finds that any
22 licensee or:

23 (1) his employee or agent knowingly has sold,
24 served or given any alcoholic beverage to a minor in violation
25 of Section 60-7B-1 NMSA 1978 or to an intoxicated person in

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1 violation of Section 60-7A-16 NMSA 1978, on two separate
2 occasions within any twelve-month period; or

3 (2) his agent has made any material false
4 statement or concealed any material facts in his application for
5 the license or permit granted him pursuant to the provisions of
6 the Liquor Control Act.

7 C. In addition to other penalties provided in this
8 section, any retailer or dispenser who violates the provisions
9 of Section 60-7A-16 or 60-7B-1 NMSA 1978 by selling, serving or
10 delivering alcoholic beverages to an intoxicated person or a
11 minor through a drive-up window at a minimum shall have:

12 (1) upon a first violation of this subsection,
13 the privilege to sell alcoholic beverages or any other goods
14 from his drive-up window suspended by the director for a period
15 of two weeks;

16 (2) upon a second violation of this subsection,
17 the privilege to sell alcoholic beverages or any other goods
18 from his drive-up window suspended by the director for a period
19 of thirty days;

20 (3) upon a third violation of this subsection,
21 the privilege to sell alcoholic beverages or any other goods
22 from his drive-up window suspended by the director for a period
23 of sixty days; and

24 (4) upon a fourth violation of this subsection
25 within two years of any other violations of Section 60-7A-16 or

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1 60-7B-1 NMSA 1978, the privilege to sell alcoholic beverages or
2 any other goods from his drive-up window revoked by the director
3 and the drive-up window permanently closed.

4 D. Any licensee aggrieved by a revocation,
5 suspension or fine proposed to be imposed by the director
6 pursuant to this section shall be entitled to the hearing
7 procedures set forth in [~~Article 6C of~~] Chapter 60, Article 6C
8 NMSA 1978 before the revocation, suspension or fine shall be
9 effective.

10 E. Any charge filed against a licensee by the
11 department and the resulting disposition of the charge shall be
12 reported to the department of public safety and local law
13 enforcement agencies whose jurisdictions include the licensed
14 establishment. "

State of New Mexico House of Representatives

FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

March 16, 1997

Mr. Speaker:

Your BUSINESS AND INDUSTRY COMMITTEE, to whom has
been referred

HOUSE BILL 1168

has had it under consideration and reports same with
recommendation that it DO PASS, amended as follows:

1. On page 1, line 20, strike "The" and insert in lieu
thereof "In the unincorporated area of a class A county with a
population of greater than two hundred thousand persons as
determined by the 1990 federal decennial census, the".

2. On page 3, line 7, after the period strike "The" and
insert in lieu thereof "In the unincorporated area of a class A
county with a population of greater than two hundred thousand
persons as determined by the 1990 federal decennial census, the".,

FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

HBIC/HB 1168

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and thence referred to the JUDICIARY COMMITTEE.

Respectfully submitted,

Fred Luna, Chairman

Adopted _____ Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 7 For 0 Against

Yes: 7

Excused: Alwin, Getty, Gubbels, Kissner, Olguin,

Varela

Absent: None

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State of New Mexico House of Representatives

**FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997**

March 19, 1997

Mr. Speaker:

**Your JUDICIARY COMMITTEE, to whom has been referred
HOUSE BILL 1168, as amended
has had it under consideration and reports same with
recommendation that it DO PASS.**

Respectfully submitted,

Thomas P. Foy, Chairman

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FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

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Adopted _____ Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 8 For 0 Against

Yes: 8

Excused: Alwin, Mallory, Rios, Sanchez, Stewart

Absent: None

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